IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No. 8173
Charles Edward ANDERSON, IV	Art Unit: 2141
Application No. 10/080,671	Examiner: Chirag R. PATEL
Filed: February 25, 2002	Atty. Docket: 1875.1990000
For: **System, Method And Computer Program Product For Selectively Caching Domain Name System Information On A Network Gateway**	

Brief on Appeal Under 37 C.F.R. § 41.37

Mail Stop Appeal Brief - Patents

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

A Notice of Appeal from the final rejection of claims 1-50 was filed on May 5, 2008. Appellant hereby files one copy of this Appeal Brief, together with the required fee set forth in 37 C.F.R. § 41.20(b)(2).

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 19-0036.

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I.   *Real Party in Interest (37 C.F.R. § 41.37(c)(1)(i))*

The real party in interest in this appeal is Broadcom Corporation ("Broadcom"), having its principal place of business at 5300 California Avenue, Irvine, California 92617. An Assignment assigning all right, title, and interest in and to the patent application from the inventor to Broadcom was recorded in the United States Patent and Trademark Office on February 25, 2002, at reel 012634, frame 0765.

II.   *Related Appeals and Interferences (37 C.F.R. § 41.37(c)(1)(ii))*

To the best of the knowledge of Appellant, Appellant's legal representative, and Appellant's assignee, there are no other appeals, interferences, or judicial proceedings which are related to, directly affect, or be directly affected by or have a bearing on a decision by the Board of Patent Appeals and Interferences ("the Board") in the pending appeal.

III.   Status of Claims (37 C.F.R. § 41.37(c)(1)(iii))

This application was originally filed as U.S. Application No. 10/080,671 on February 25, 2002, with 44 claims.   In response to an Office Action mailed September 26, 2005, Appellant filed a Reply Under 37 C.F.R. § 1.111 on February 24, 2006, in which no changes to the claims were made.   In response to a Final Office Action mailed May 17, 2006, Appellant filed an Amendment and Reply Under 37 C.F.R. § 1.116 on August 17, 2006, in which claims 1-44 were amended, together with a Request for Continued Examination.   In response to an Office Action mailed March 19, 2007, correcting an Office Action mailed November 14, 2006, Appellant filed an Amendment and Reply Under 37 C.F.R. § 1.111 on September 19, 2007, in which claims 1-4, 10-13, 20-31, 35, 36, and 39 were amended, and new claims 45-50 were added.   In response to a Final Office Action mailed October 25, 2007, Appellant filed a Reply Under 37 C.F.R. § 1.116, in which no changes to the claims were made, together with a Request for Continued Examination.   The Examiner issued a Final Office Action on January 8, 2008, from which Appellant files this Appeal.

Claims 1-50 are pending.   Claims 1-50 are rejected and are being appealed.   A copy of the claims on appeal can be found in the attached Claims Appendix as required under 37 C.F.R. § 41.37(c)(1)(viii).

IV.   *Status of Amendments (37 C.F.R. § 41.37(c)(1)(iv))*

No amendments have been filed subsequent to the Final Office Action dated January 8, 2008. All amendments presented in the Amendment and Reply Under 37 C.F.R. § 1.116, filed August 17, 2006, and the Amendment and Reply Under 37 C.F.R. § 1.111, filed September 19, 2007, have been entered.

V.   Summary of Claimed Subject Matter (37 C.F.R. § 41.37(c)(1)(v))

A concise explanation of the subject matter defined in each of the independent claims on appeal (i.e., claims 1, 10, 21, 22, 30, and 39) is provided below. The explanation refers to the specification, as presented in the patent application publication, by paragraph number and to the drawings by reference characters.

Claims 1, 10, 21, 22, 30, and 39 are broadly directed to a system, method, or computer program product for providing frequently accessed domain names to a network gateway by searching application data files in a customer premises equipment ("CPE") that hold frequently accessed domain names to identify the frequently accessed domain names.

FIG. 8 of the Instant Published Application is a flowchart depicting steps by which a search application running at a CPE is able to identify frequently accessed domain names, in accordance with an embodiment of the present invention. (Published Application, [0098]; FIG. 8). The search application searches files on the CPE that hold frequently accessed domain names such as, for example, files associated with a web browser. (Published Application, [0099]). These domain names are then provided to a gateway device. (Published Application, [0100]).

Each of independent claims 1, 10, 21, 22, 30, and 39 find support at least in the above-referenced sections of the Published Application. The remaining claims draw similar support from the aforementioned sections of the Published Application.

## VI.	*Grounds of Rejection To Be Reviewed on Appeal (37 C.F.R. § 41.37(c)(1)(vi))*

The Examiner has finally rejected claims 1, 4, 5, 7-9, 22-25, 27-29, 39, 40, 42-45, 48, and 50 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,385,693 to Gerszberg et al. ("Gerszberg").

The Examiner has finally rejected claims 10, 13, 14, 16-21, 30-33, 35-38, 46, 47, and 49 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of U.S. Patent No. 6,016,512 to Huitema ("Huitema"). Appellant notes that the Final Office Action on page 7 states that claims 10, 13, 14, 16-25, 27-33, 35-38, 46, 47, and 49 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Gerszberg in view of Huitema, but no discussion is provided regarding claims 22-25 and 27-29. Appelant therefore believes the listing of claims on page 7 of the Final Office Action to be in error, and Appellant has addressed the remaining claims.

The Examiner has finally rejected claims 2 and 3 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of U.S. Patent Application Publication No. 2002/0126812 to Majewski et al. ("Majewski").

The Examiner has finally rejected claims 6, 26, and 41 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of U.S. Patent Application Publication No. 2002/0120783 to Evgey ("Evgey").

The Examiner has finally rejected claims 11 and 12 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of Huitema, and further in view of Majewski.

The Examiner has finally rejected claims 15 and 34 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of Huitema, and further in view of Evgey.

Accordingly, the grounds of rejection to be reviewed on appeal are:

### A.	*Ground 1*

Whether claims 1, 4, 5, 7-9, 22-25, 27-29, 39, 40, 42-45, 48, and 50 would have been anticipated by U.S. Patent No. 6,385,693 to Gerszberg et al. under 35 U.S.C. § 102(e).

B.   *Ground 2*

Whether claims 10, 13, 14, 16-21, 30-33, 35-38, 46, 47, and 49 would have been obvious over U.S. Patent No. 6,385,693 to Gerszberg et al. in view of U.S. Patent No. 6,016,512 to Huitema under 35 U.S.C. § 103(a).

C.   *Ground 3*

Whether claims 2 and 3 would have been obvious over U.S. Patent No. 6,385,693 to Gerszberg et al. in view of U.S. Patent Application Publication No. 2002/0126812 to Majewski et al. under 35 U.S.C. § 103(a).

D.   *Ground 4*

Whether claims 6, 26, and 41 would have been obvious over U.S. Patent No. 6,385,693 to Gerszberg et al. in view of U.S. Patent Application Publication No. 2002/0120783 to Evgey under 35 U.S.C. § 103(a).

E.   *Ground 5*

Whether claims 11 and 12 would have been obvious over U.S. Patent No. 6,385,693 to Gerszberg et al. in view of U.S. Patent No. 6,016,512 to Huitema, and further in view of U.S. Patent Application Publication No. 2002/0126812 to Majewski et al. under 35 U.S.C. § 103(a).

F.   *Ground 6*

Whether claims 15 and 34 would have been obvious over U.S. Patent No. 6,385,693 to Gerszberg et al. in view of U.S. Patent No. 6,016,512 to Huitema, and further in view of U.S. Patent Application Publication No. 2002/0120783 to Evgey under 35 U.S.C. § 103(a).

VII.   Argument (37 C.F.R. § 41.37(c)(1)(vii))

There are six separate grounds of rejection to be reviewed on appeal.

A.   Rejection of claims 1, 4, 5, 7-9, 22-25, 27-29, 39, 40, 42-45, 48, and 50 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,385,693 to Gerszberg et al.

A Final Office Action was mailed on January 8, 2008 rejecting claims 1, 4, 5, 7-9, 22-25, 27-29, 39, 40, 42-45, 48, and 50 under 35 U.S.C. § 102(e) as allegedly being anticipated by Gerszberg. Appellant's remarks focus mainly on independent claims 1, 22, and 39, because any claim which depends from a patentable independent claim is also patentable at least by virtue of its dependency.

To establish a prima facie case of anticipation under §102(e), the Examiner must show that "each an every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil of California, 814 F.2d 628, 631 (Fed. Cir. 1987). Because the Examiner has failed to establish that each and every element is described in Gerszberg, the rejection of claims 1, 4, 5, 7-9, 22-25, 27-29, 39, 40, 42-45, 48, and 50 must be reversed.

1.   The Rejection of Claims 1, 22, and 39 is in Error and Must be Reversed

Independent claim 1 recites "a method for identifying frequently accessed domain names in a customer premises equipment that includes a memory and a communication interface, the frequently accessed domain names to be provided to a network gateway for use in domain name system caching." The method includes the steps of:

> (a) searching files in the memory to identify the frequently accessed domain names; and
> (b) providing the frequently accessed domain names to the communication interface for transmission to the network gateway over a communication path;

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wherein the files in the memory comprise application data files that hold frequently accessed domain names.

Gerszberg discloses a system for interconnecting various devices using an intelligent services director ("ISD"). (Gerszberg, col. 5, ll. 48-51). This ISD is coupled to a central office over a customer connection. (Gerszberg, col. 5, ll. 1-10). A facilities management platform ("FMP") at the central office processes any data exchanged across the customer connection. (Gerszberg, col. 5, ll. 10-13). A network server platform ("NSP") can be used to provide a cache to the FMP for any information provided to the ISD, and can additionally act as a gateway to other services, the NSP and FMP together defining an access network server complex. (Gerszberg, col. 5, ll. 38-47).

Appellant submits that the FMP and NSP of Gerszberg are not customer premises equipment ("CPEs") within the context of the instant application, as they are not within the control of a customer, but are controlled by a service provider. (see, e.g., Federal Standard 1037C, *Glossary of Telecommunications Terms*, 1996, web available at http://www.its.bldrdoc.gov/fs-1037/fs-1037c.htm ("Terminal and associated equipment and inside wiring located at a subscriber's premises and connected with a carrier's communication channel(s) at the demarcation point")). As previously noted, the FMP and NSP of Gerszberg are part of an "access network server complex," and Gerszberg explicitly demarcates the FMP and NSP from the customer premises in FIG. 1, where the FMP and NSP are shown outside of the CPE **10**. (Gerszberg, col. 5, ll. 40-42; FIG. 1). Specifically, Gerszberg states that "[t]he FMP **32** may process data and/or analog/digitized voice between customer premise equipment (CPE) **10** and any number of networks," thereby evidencing that the FMP is not part of the CPE. (Gerszberg, col. 5, ll. 24-26). Since the NSP is located together with the FMP as part of an "access network server complex," or is otherwise

"preferably located in a point-of-presence facility," then it cannot reasonably be said to be part of the CPE. (Gerszberg, col. 5, ll. 40-46).

However, Gerszberg does state that "[t]he NSP **36** may be located anywhere," and thereby could theoretically be located within the customer premises. (Gerszberg, col. 5, ll. 44-46). Appellant submits that, even assuming, *arguendo*, that the NSP of Gerszberg is located within the customer premises, Gerszberg does not teach or suggest the step of "searching files in the memory [of the NSP] to identify the frequently accessed domain names … wherein the files in the memory comprise application data files that hold frequently accessed domain names," as recited in independent claim 1. The Examiner proposes that Gerszberg teaches this step at col. 11, ll. 10-20, but Appellant respectfully disagrees. (Final Office Action, pp. 4 and 7).

The NSP operates by intercepting requests from clients, providing content from its own cache if available, or, if not available, requesting the content of a URL address, caching a copy, and providing the results to the clients. (Gerszberg, col. 10, ll. 24-43). The information at the NSP can also include "push information", such as "telephone directory information, advertisements, movies on demand, and billing information." (Gerszberg, col. 11, ll. 10-20).

Appellant submits that the NSP of Gerszberg is utilized for storing the result of information requests, such as the content of a URL address, rather than the "frequently accessed domain names" themselves, especially for the purpose of "domain name system caching," as recited in independent claim 1. (Gerszberg, col. 10, ll. 24-43). Moreover, Gerszberg clearly nowhere teaches or suggests that any files in the memory of the NSP are "application data files," as recited in independent claim 1, within the context of the instant Application. The instant specification states that, in accordance with an embodiment, "[f]or example, the CPE application may search files associated with a Web browser, such as files

that includes the domain names of favorite user Web sites, or with an electronic mail application, such as a file that identifies the domain name of one or more e-mail host data servers." (Published Instant Application at [0099]). Such data files, related to any particular application, are nowhere found in Gerszberg.

The Examiner suggests that such usage of application data files is found in Gerszberg at col. 9, line 61 - col. 10, line 10, in formulating a rejection of claims 5, 25, and 40. (Final Office Action, p. 4). In this example, the NSP is merely intercepting URL requests by a web browser at a client system, and nowhere are any application data files (e.g., data files at the client associated with the web browser running at the client) searched in order to identify frequently used domain names, as recited in independent claim 1. Moreover, there is no mention at all of storing frequently used domain names at all, but merely the resulting data from a Web page.

Accordingly, it cannot be the case that Gerszberg teaches or suggests each and every feature of independent claim 1. Therefore, the Examiner's rejection of claim 1 is in error and must be reversed.

Independent claims 22 and 39 each recite similar features as independent claim 1. For similar reasons to those provided for independent claim 1, Gerszberg cannot be said to teach or suggest each of the features of independent claims 22 and 39. Accordingly, the Examiner's rejection of claims 22 and 39 is in error and must also be reversed.

2.   The Rejection of Claims 4, 5, 7-9, 23-25, 27-29, 40, 42-45, 48, and 50 is in Error and Must be Reversed

Dependent claims 4, 5, 7-9, 23-25, 27-29, 40, 42-45, 48, and 50 are not anticipated by Gerszberg for at least the same reasons as independent claims 1, 22, and 39 from which they depend, and further in view of their own respective features. Accordingly, the Examiner's

rejection of claims 4, 5, 7-9, 23-25, 27-29, 40, 42-45, 48, and 50 is in error and must also be reversed.

B.   Rejection of claims 10, 13, 14, 16-21, 30-33, 35-38, 46, 47, and 49 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,385,693 to Gerszberg et al. in view of U.S. Patent No. 6,016,512 to Huitema.

The Final Office Action mailed on January 8, 2008 rejected claims 10, 13, 14, 16-21, 30-33, 35-38, 46, 47, and 49 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of Huitema.

1.   The Examiner Bears the Burden of Establishing a Prima Facie Case of Obviousness

The Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art. In re Piasecki, 745 F.2d 1468, 1471-73, 223 U.S.P.Q. 785, 787-88 (Fed. Cir. 1984). The Examiner has failed to meet this burden. Without more evidence of unpatentability, Appellant is entitled to grant of a patent. In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992).

The United States Supreme Court recently addressed the issue of obviousness and hindsight reasoning. In KSR v. Teleflex, No. 04-1350, slip op. at 14 (U.S. April 30, 2007), the United States Supreme Court reiterated that, "'[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness'" (quoting from In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)). Further, the Supreme Court warned that "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. . . . This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known." Id. at 14-15. The Supreme Court also confirmed that, "[a]

factfinder should be aware, of course, of the distinction caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning." Id. at 17.

The Supreme Court's opinion in KSR did not change the Examiner's burden of establishing a prima facie case of obviousness as articulated by the Federal Circuit in Piasecki. In this case, the Examiner's rejection over Gerszberg in view of Huitema fails to disclose all of the features of the claimed embodiments. Accordingly, Appellant appeals the Examiner's rejection on the ground that a prima facie case of obviousness has not been established.

2.   The Obviousness Rejection with Respect to Claims 10, 13, 14, 16-21, 30-33, 35-38, 46, 47, and 49 Is in Error and Must Be Reversed

Independent claims 10, 21, and 30 each recite, *inter alia*, "searching files in the memory to identify a frequently accessed domain name ... wherein the files in the memory comprise application data files that hold frequently accessed domain names," in a similar manner as independent claim 1. The Examiner argues that Gerszberg teaches this feature (see Final Office Action, pp. 6-7) on a similar basis as discussed above with regard to independent claim 1. For the aforementioned reasons, Gerszberg does not teach or suggest "searching files in the memory to identify a frequently accessed domain name ... wherein the files in the memory comprise application data files that hold frequently accessed domain names." Huitema does not supply the missing teachings of Gerszberg, nor does the Examiner refer to Huitema as teaching or suggesting the aforementioned feature of claims 10, 21, and 30.

Huitema discloses a system for prefetching and storing domain name data in a local cache server, the data provided to it by a network cache server. (Huitema, col. 3, ll. 17-24 and ll.48-51; FIG. 3). Accordingly, Appellant submits that the combination of Gerszberg and Huitema does not teach or suggest each and every feature of independent claims 10, 21, and

30. As a consequence, dependent claims 13, 14, 16-20, 31-33, 35-38, 46, 47, and 49 are also

not rendered obvious by Gerszberg and Huitema for at least the same reasons as independent

claims 10, 21, and 30 from which they depend, and further in view of their own respective

features. Accordingly, the Examiner's rejection of claims 10, 13, 14, 16-21, 30-33, 35-38,

46, 47, and 49 under 35 U.S.C. § 103(a) is in error and must be reversed.

C.   *Rejection of claims 2 and 3 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,385,693 to Gerszberg et al. in view of U.S. Patent Application Publication No. 2002/0126812 to Majewski et al.*

The Final Office Action mailed on January 8, 2008 rejected claims 2 and 3 under 35

U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of Majewski.

As discussed above, Gerszberg does not teach or suggest "searching files in the

memory to identify a frequently accessed domain name ... wherein the files in the memory

comprise application data files that hold frequently accessed domain names," as recited in

independent claim 1. Majewski further discloses a utility for manipulating configuration

parameters for a software application. Majewski does not provide the missing teachings of

Gerszberg. Accordingly, Appellant submits that the combination of Gerszberg and Majewski

does not teach or suggest each and every feature of independent claim 1. As a consequence,

dependent claims 2 and 3 are also not rendered obvious by Gerszberg and Majewski for at

least the same reasons as independent claim 1 from which they depend and further in view of

their own respective features. Accordingly, the Examiner's rejection of claims 2 and 3 under

35 U.S.C. § 103(a) is in error and must be reversed.

D.   *Rejection of claims 6, 26, and 41 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,385,693 to Gerszberg et al. in view of U.S. Patent Application Publication No. 2002/0120783 to Evgey.*

The Final Office Action mailed on January 8, 2008 rejected claims 6, 26, and 41

under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of Evgey.

As discussed above, Gerszberg does not teach or suggest "searching files in the memory to identify a frequently accessed domain name ... wherein the files in the memory comprise application data files that hold frequently accessed domain names," as recited in independent claim 1. Evgey further discloses a means of peer-to-peer data sharing. Evgey does not provide the missing teachings of Gerszberg. Accordingly, Appellant submits that the combination of Gerszberg and Evgey does not teach or suggest each and every feature of independent claim 1. As a consequence, dependent claim 6 is also not rendered obvious by Gerszberg and Evgey for at least the same reasons as independent claim 1 from which it depends and further in view of its own respective features. Accordingly, the Examiner's rejection of claim 6 under 35 U.S.C. § 103(a) is in error and must be reversed.

Independent claims 22 and 39 recite similar features as independent claim 1. Accordingly, Appellant submits that the combination of Gerszberg and Evgey does not teach or suggest each and every feature of independent claims 22 and 39. As a consequence, dependent claims 26 and 41 are also not rendered obvious by Gerszberg and Evgey for at least the same reasons as independent claims 22 and 39 from which they depend and further in view of their own respective features. Accordingly, the Examiner's rejection of claims 26 and 41 under 35 U.S.C. § 103(a) is in error and must be reversed.

E.   *Rejection of claims 11 and 12 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,385,693 to Gerszberg et al. in view of U.S. Patent No. 6,016,512 to Huitema, and further in view of U.S. Patent Application Publication No. 2002/0126812 to Majewski et al.*

The Final Office Action mailed on January 8, 2008 rejected claims 11 and 12 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of Huitema, and further in view of Majewski.

As discussed above, Gerszberg does not teach or suggest "searching files in the memory to identify a frequently accessed domain name ... wherein the files in the memory

comprise application data files that hold frequently accessed domain names," as recited in independent claim 10. Huitema and Majewski do not provide the missing teachings of Gerszberg. Accordingly, Appellant submits that the combination of Gerszberg, Huitema, and Majewski does not teach or suggest each and every feature of independent claim 10. As a consequence, dependent claims 11 and 12 are also not rendered obvious by Gerszberg, Huitema, and Majewski for at least the same reasons as independent claim 10 from which they depend and further in view of their own respective features. Accordingly, the Examiner's rejection of claims 11 and 12 under 35 U.S.C. § 103(a) is in error and must be reversed.

F. ***Rejection of claims 15 and 34 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,385,693 to Gerszberg et al. in view of U.S. Patent No. 6,016,512 to Huitema, and further in view of U.S. Patent Application Publication No. 2002/0120783 to Evgey.***

The Final Office Action mailed on January 8, 2008 rejected claims 15 and 34 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of Huitema, and further in view of Evgey.

As discussed above, Gerszberg does not teach or suggest "searching files in the memory to identify a frequently accessed domain name ... wherein the files in the memory comprise application data files that hold frequently accessed domain names," as recited in independent claims 10 and 30. Huitema and Evgey do not provide the missing teachings of Gerszberg. Accordingly, Appellant submits that the combination of Gerszberg, Huitema, and Evgey does not teach or suggest each and every feature of independent claims 10 and 30. As a consequence, dependent claims 15 and 34 are also not rendered obvious by Gerszberg, Huitema, and Evgey for at least the same reasons as independent claims 10 and 30 from which they depend and further in view of their own respective features. Accordingly, the

Examiner's rejection of claims 15 and 34 under 35 U.S.C. § 103(a) is in error and must be reversed.

G.   Conclusion

The subject matter of claims 1-50 is patentable over the cited prior art because the Examiner has failed to make a prima facie case of anticipation or obviousness. Therefore, Appellant respectfully requests that the Board reverse the Examiner's final rejection of these claims under 35 U.S.C. §§ 102 and 103 and remand this application for issue.

Respectfully submitted,

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VIII. Claims Appendix (37 C.F.R. § 41.37(c)(1)(viii))

1.   A method for identifying frequently accessed domain names in a customer premises equipment that includes a memory and a communication interface, the frequently accessed domain names to be provided to a network gateway for use in domain name system caching, comprising the steps of:

(a) searching files in the memory to identify the frequently accessed domain names; and

(b) providing the frequently accessed domain names to the communication interface for transmission to the network gateway over a communication path;

wherein the files in the memory comprise application data files that hold frequently accessed domain names.

2.   The method of claim 1, wherein the customer premises equipment runs an operating system, and wherein steps (a) and (b) are initiated during start-up of the operating system.

3.   The method of claim 1, wherein the customer premises equipment runs an operating system, and wherein steps (a) and (b) are initiated periodically by the operating system.

4.   The method of claim 1, wherein steps (a) and (b) occur in response to the execution of an application by a user of the customer premises equipment.

5.   The method of claim 1, wherein step (a) comprises searching application data files associated with a Web browser application.

6.   The method of claim 1, wherein step (a) comprises searching application data files associated with an electronic mail application.

7.   The method of claim 1, wherein step (b) comprises packetizing the frequently accessed domain names and providing the packetized information to the communication interface.

8.   The method of claim 1, wherein step (b) comprises storing the frequently accessed domain names in a management information base and providing the management information base to the communication interface.

9.   The method of claim 1, wherein step (b) comprises generating a domain name system query that includes the frequently accessed domain name and providing the domain name system query to the communication interface.

10.   A method for selectively caching domain name system information on a network gateway that includes a cache, wherein the network gateway is attached to a customer premises equipment that includes a memory, comprising the steps of:

(a) searching files in the memory to identify a frequently accessed domain name;

(b) providing the frequently accessed domain name from the customer premises equipment to the network gateway;

(c)   generating, in the gateway, a domain name system query that includes the frequently accessed domain name;

(d)   transmitting the domain name system query from the network gateway to a network for resolution;

(e)   receiving, in the gateway, a response to the domain name system query from the network that includes the frequently accessed domain name and a corresponding IP address; and

(f)   storing the frequently accessed domain name and the corresponding IP address in the cache;

wherein the files in the memory comprise application data files that hold frequently accessed domain names.

11.   The method of claim 10, wherein the customer premises equipment runs an operating system, and wherein steps (a) and (b) are initiated during start-up of the operating system.

12.   The method of claim 10, wherein the customer premises equipment runs an operating system, and wherein steps (a) and (b) are initiated periodically by the operating system.

13.   The method of claim 10, wherein steps (a) and (b) occur in response to the execution of an application by a user of the customer premises equipment.

14.   The method of claim 10, wherein step (a) comprises searching application data files associated with a Web browser application.

15.   The method of claim 10, wherein step (b) comprises searching application data files associated with an electronic mail application.

16.   The method of claim 10, wherein step (b) comprises packetizing the frequently accessed domain name and transmitting the packetized information to the network gateway.

17.   The method of claim 10, wherein step (b) comprises storing the frequently accessed domain name in a management information base and providing the management information base to the network gateway.

18.   The method of claim 10, wherein step (d) comprises transmitting the domain name system query to a domain name server on the network for resolution.

19.   The method of claim 10, wherein step (c) comprises generating a domain name system query in accordance with an iterative resolution protocol.

20.   The method of claim 10, further comprising:

(g)   receiving, in the network gateway, a domain name system query from the customer premises equipment; and

(h)   resolving, in the network gateway, the domain name system query from the customer premises equipment using a domain name and corresponding IP address stored in the cache.

21.   A method for selectively caching domain name system information on a network gateway that includes a cache, wherein the network gateway is attached to a customer premises equipment that includes a memory, comprising the steps of:

(a) searching files in the memory to identify a frequently accessed domain name;

(b) generating, in the customer premises equipment, a domain name system query that includes the frequently accessed domain name;

(c) providing the domain name system query from the customer premises equipment to the network gateway;

(d) transmitting the domain name system query from the network gateway to a network for resolution;

(e) receiving, in the gateway, a response to the domain name system query from the network that includes the frequently accessed domain name and a corresponding IP address; and

(f) storing the frequently accessed domain name and the corresponding IP address in the cache;

wherein the files in the memory comprise application data files that hold frequently accessed domain names.

22.   A customer premises equipment, comprising:

a memory that stores files, wherein the files comprise application data files that hold frequently accessed domain names;

a communication interface for transmitting information to a network gateway; and

a processor coupled to the memory and the communication interface;

wherein said processor is configured to search the files in the memory to identify frequently accessed domain names and to provide the frequently accessed domain names to the communication interface for transmission to the network gateway.

23.   The customer premises equipment of claim 22, wherein the memory comprises a hard disk drive.

24.   The customer premises equipment of claim 22, wherein the communication interface is a home phoneline network interface, an Ethernet interface or a Universal Serial Bus interface.

25.   The customer premises equipment of claim 22, wherein the application data files are associated with a Web browser application.

26.   The customer premises equipment of claim 22, wherein the application data files are associated with an electronic mail application.

27.   The customer premises equipment of claim 22, wherein the processor is configured to provide the frequently accessed domain names to the communication interface by packetizing the frequently accessed domain names and providing the packetized information to the communication interface.

28.   The customer premises equipment of claim 22, wherein the processor is configured to provide the frequently accessed domain names to the communication interface

by storing the frequently accessed domain names in a management information base and providing the management information base to the communication interface.

29.   The customer premises equipment of claim 22, wherein the processor is configured to provide the frequently accessed domain names to the communication interface by generating a domain name system query that includes the frequently accessed domain name and providing the domain name system query to the communication interface.

30.   A system for selectively caching domain name system information in a network gateway, comprising:

a customer premises equipment (CPE) including a memory that stores files, a communication interface for transmitting information over a communication path, and a CPE processor coupled to the memory and the communication interface, wherein the CPE processor is configured to search the files to identify a frequently accessed domain name and to provide the frequently accessed domain name to the communication interface for transmission over the communication path; and

a network gateway including a cache, a CPE interface for receiving information over the communication path, a network interface for transmitting information over a network, and a gateway processor coupled to the cache, the CPE interface, and the network interface, the gateway processor configured to receive the frequently accessed domain name from the communication path via the CPE interface, to generate a domain name system query that includes the frequently accessed domain name, to provide the query to the network interface for transmission to a network for resolution, to receive a response to the query from the network via the network interface that includes the frequently accessed domain name and a

corresponding IP address, and to store the frequently accessed domain name and the corresponding IP address in the cache;

wherein the files in the memory comprise application data files that hold frequently accessed domain names.

31.   The system of claim 30, wherein the memory in the customer premises equipment comprises a hard disk drive.

32.   The system of claim 30, wherein the communication path is a home phoneline network, an Ethernet, or a Universal Serial Bus.

33.   The system of claim 30, wherein the application data files are associated with a Web browser application.

34.   The system of claim 30, wherein the application data files are associated with an electronic mail application.

35.   The system of claim 30, wherein the CPE processor is configured to provide the frequently accessed domain name to the communication interface by packetizing the frequently accessed domain name and providing the packetized information to said communication interface.

36.   The system of claim 30, wherein the CPE processor is configured to provide the frequently accessed domain name to the communication interface by storing the

frequently accessed domain name in a management information base and providing the management information base to the communication interface.

37.   The system of claim 30, wherein the network interface transmits the query to a domain name server on the network for resolution.

38.   The system of claim 30, wherein the gateway processor is configured to generate the domain name system query in accordance with an iterative resolution protocol.

39.   A computer program product comprising a computer useable medium having computer program logic for enabling a processor in a customer premises equipment to identify frequently accessed domain names to be provided to a network gateway for use in domain name system caching, the customer premises equipment further including a memory and a communication interface, comprising:

means for enabling the processor to search files in the memory to identify the frequently accessed domain names; and

means for enabling the processor to provide the frequently accessed domain names to the communication interface for transmission to the network gateway;

wherein the files in the memory comprise application data files that hold frequently accessed domain names.

40.   The computer program product of claim 39, wherein the application data files comprise application data files associated with a Web browser application.

41.   The computer program product of claim 39, wherein the application data files comprise application data files associated with an electronic mail application.

42.   The computer program product of claim 39, wherein the means for enabling the processor to provide the frequently accessed domain names to the communication interface comprises means for enabling the processor to packetize the frequently accessed domain names and provide the packetized information to the communication interface.

43.   The computer program product of claim 39, wherein the means for enabling the processor to provide the frequently accessed domain names to the communication interface comprises means for enabling the processor to store the frequently accessed domain names in a management information base and provide the management information base to the communication interface.

44.   The computer program product of claim 39, wherein the means for enabling the processor to provide the frequently accessed domain names to the communication interface comprises means for enabling the processor to generate a domain name system query that includes the frequently accessed domain name and provide the domain name system query to the communication interface.

45.   The method of claim 1, wherein the customer premises equipment comprises a personal computer.

46.   The method of claim 10, wherein the customer premises equipment comprises a personal computer.

47.   The method of claim 21, wherein the customer premises equipment comprises a personal computer.

48.   The customer premises equipment of claim 22, wherein the customer premises equipment is a personal computer.

49.   The system of claim 30, wherein the customer premises equipment comprises a personal computer.

50.   The computer program product of claim 39, wherein the customer premises equipment comprises a personal computer.

IX.   *Evidence Appendix (37 C.F.R. § 41.37(c)(1)(ix))*

To the best of the knowledge of Appellant, Appellant's legal representative, and Appellant's assignee, there has been no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132, nor has any other evidence been entered in the record by the Examiner and relied upon in this Appeal Brief.

X.   *Related Proceedings Appendix (37 C.F.R. § 41.37(c)(1)(x))*

To the best of the knowledge of Appellant, Appellant's legal representative, and Appellant's assignee, there are no decisions rendered by a court or the board because, as identified above, to the best of the knowledge of Appellant, Appellant's legal representative, and Appellant's assignee, there are no other appeals, interferences, or judicial proceedings which may related to, directly affect, or be directly affected by or have a bearing on a decision by the Board in the pending appeal.